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[Third Party Communication:

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From: [REDACTED]

Sent: Thursday, November 06, 2014 12:54:00 PM

To: [REDACTED]

Cc: [REDACTED]

Bcc:

Subject: RE: 6511(b) Question

My instinct is that TAS is correct. In the situation you describe, the claim is timely under section 6511(a) because the return is a claim for refund. See Rev. Rul. 76-511. I don't think that the limitation on an amount of refund depends on whether the return was timely filed. I think the period in 6511(b)(2)(A) is applicable because the claim is timely based on the 3-year period in 6511(a) (i.e., it was filed within 3 years from the date on which the late-filed return was filed, because it was filed within 3 years of itself). Accordingly, I would think that there is a three-year look-back with respect to the limitation on amount.

But I have two concerns. First, my branch doesn't have subject matter jurisdiction for refund periods of limitation (oddly enough). Accordingly, I am cc'ing [REDACTED] (a 1/2 branch chief with subject matter jurisdiction). Second, I don't know if we take a different position based on the fact that the return was filed post-SFR. I know that in bankruptcy Counsel takes some funny positions about whether a return filed post-SFR that does nothing more than copy the numbers off of the SFR (or perhaps that lowers them a bit by claiming the 6013 joint return election) is in fact a return for certain purposes. So perhaps there is some additional analysis required, but I suspect that [REDACTED] will know that as well, and it likely will require additional facts.

Note that the ruling cited above also indicates that the three-year period is available for look-back purposes (but again, it does not involve a prior SFR assessment).